IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Rev Application No.26 of 2006
Mr Vikjay Tulsidas Gandhi..petitioner
vs
Confidential Castings Ltd & ors.. respondents

Ms Madhuri V Gaikwad for petitioner

**CORAM; A.M.KHANWILKAR J.**

**DATED 2.3.2006**

**P.C.**

l. Heard learned counsel for the petitioner. In my view, no fault can be found with the opinion expressed by the court below that the defendant was not served in accordance with the provisions of C.P.C. Even if the joint affidavit filed by Mr. Kisan Naik who was the Bailiff and of Mr. Shekhar Dere the office administrator of the plaintiff dated 22.8.2003 or the affidavit of Smt M V Modas dispatch clerk in the office of the City Civil Court are considered in their proper perspective, it is not the case of proper service effected on the defendants. The affidavits on the contrary clearly indicate that service could not be effected as the company's office was reported to be closed . In such a case the petitioner ought to have taken recourse to substituted service if they were so

advised but surely effecting of service by UPC, though under the orders of the court, cannot be said to be proper service effected on the respondent company . In the circumstances the view taken by the court below which is the basis for setting aside the exparte order passed against the respondent defendant needs no interference. No case is made out for exercising revisional jurisdiction. Revision is dismissed.